



# CHAPTER 90: CRITICAL AREAS UPDATE

## JUNE 23, 2016

PLANNING COMMISSION STUDY SESSION



# AGENDA

1. Overview of preliminary draft Chapter 90 Part I (pages 1-38)
2. Revisions to list of Exempt Activities
3. Revisions to list of Permitted Activities
4. Public Programmatic permits (new topic)
5. Public Agency and Public Utility Exceptions (new topic)
6. Totem Lake and Forbes Lake (revised existing code/new discussion)
7. Comments from Houghton Community Council from May 23, 2016 study session
8. Comments from City Council from June 21, 2016 study session
9. Public comment letter from William Anspach dated June 21, 2016
10. Go through section by section for comments from the Planning Commission

## OVERVIEW OF DRAFT CHAPTER 90

- ❑ Preliminary draft Chapter 90 up through pages 1-38.
- ❑ Remainder to be reviewed at Planning Commission meeting in July.
- ❑ Staff will continue to make edits and some reorganization of chapter.
- ❑ Chapter is **clean** version and not editing current Chapter 90 because complete rewrite..
- ❑ Draft chapter reflects **direction** of Planning Commission as of April 23rd meeting, except where noted in staff memo and in this presentation.

## THREE TIER APPROACH TO CRITICAL AREA PERMITS (PAGES 5-11 OF DRAFT CODE)

- 1<sup>st</sup> Tier – **Exemptions** (No permit) have no or minor environmental impact
- 2<sup>nd</sup> Tier – **Permitted Activities Subject to Standards** (Planning Official decision) have more than minor environmental impact. Includes some public programmatic permits.
- 3<sup>rd</sup> Tier –
  - **Public Utility and Public Agency Exceptions** (Planning Director decision – Process I permit) when strict application of the regulations prohibit public agency or public utility proposal. Includes some public programmatic permits.
  - **Wetland or Stream Modification Permits** (Planning Director – Process I permit) for private proposals.

## REVISED EXEMPTION LIST (PAGES 5-6 OF DRAFT CODE)

- Added **landscape maintenance and HVAC** per Planning Commission direction.
- Added **voluntary public and private vegetation restoration**.
- Changes to proposed exemption list:
  - Moved new or replacement of **hazardous liquid pipeline** that increases capacity from Exempted to Public Exception list.
  - Moved **electric facilities over 55 KV** (transmission lines) to Permitted with Standards list.
  - Added **utility substations** to Public Exception list.

## REVISED PERMITTED WITH STANDARDS LIST (PAGES 7-10 OF DRAFT CODE)

- Allow **widening** of existing public streets into outer 25% of buffer.
- Allow **stream rehabilitation** such as removing debris, fish barriers, sedimentation or invasive vegetation.
- Allow **non motorized trails connecting** to the CKC.
- See table on pages 9-12 of meeting packet.

## PUBLIC PROGRAMMATIC PERMIT (NEW TOPIC) (PAGE 10 OF DRAFT CODE)

- New since last Planning Commission meeting:
  - For ongoing and repeated public agency and utility maintenance activities.
  - More efficient to bundle review of these activities because have same impacts and restoration and/or mitigation plan.
- Process: either Planning Official or Planning Director – depending on impacts to critical area or buffer

## PUBLIC AGENCY AND PUBLIC UTILITY EXCEPTIONS (NEW TOPIC) (PAGE 10 OF DRAFT CODE)

- New since last Planning Commission meeting:
  - For public projects that **do not meet threshold** of Permitted with Standards (greater impacts)
  - **Approval criteria:** strict application of critical areas regulations would restrict or prohibit public services provided.
- Process: Planning Director through Process I (public notice and comment period provided).



## TOTEM LAKE AND FORBES LAKE REGULATIONS (NEW TOPIC) (PAGES 24-25 OF DRAFT CODE)

- Existing code addresses moorage facilities and bulkheads.
- Draft code addresses **moorage facilities, viewing platforms and parks**:
  - Moorage facility review process same as current code: Process I/Planning Director
  - Maximum length of pier at 25 feet (current pier less than 25')
  - Other pier standards similar to shoreline regulations (Chapter 83)
  - Public viewing platform review process is Planning Official
  - New park would require a city park master plan under KZC 45.50

## ADVANCE MITIGATION (PAGE 15 OF MEMO)

- Advance Mitigation is doing restoration for City properties in advance of impact from City projects.
- Past staff recommendation was to limit ability to use this mitigation option for only City projects.
- Now staff recommends making option available for other public agencies to mitigate their projects at the discretion of the City.
  - Parks Dept. indicate that the City has considerable number of acres of City property that need restoration.

## HOUGHTON COMMUNITY COUNCIL COMMENTS

- Houghton Community Council held study session on May 23, 2016.
- Generally supportive of Planning Commission direction.
- Staff memo addresses areas where they had a few concerns:
  - Smaller buffer width than 50' for **seasonal streams** as some cities do
  - Impact to residential character if allow reduction in **front yard setback**
  - Allow **1,000 sf additions** anywhere in buffer as King County does
  - Don't require **locational analysis** when proposing addition in buffer

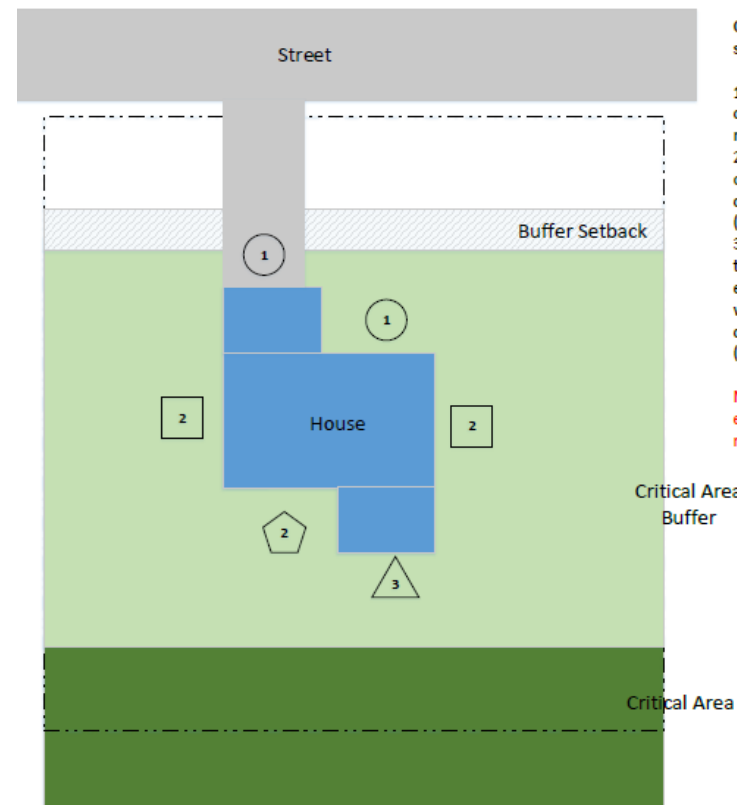
# HCC COMMENTS: EXPANSION OF NONCONFORMING STRUCTURE

## Footprint expansion with full buffer

- Require sequencing approach in order of preference
- 1,000 s.f. cap on opposite side (1)
- 500 s.f. cap if no further encroachment (2 )
- 250 s.f. cap if further encroachment (3)
- Mitigate for 1,2, 3

Note – expansions into wetland (fill) not permitted & minimum buffer width must be established (current buffers?)

Nonconformance Example – Full Buffer



Order of preference when entire structure is located in Buffer:

1. House expanded on side opposite the critical area (1,000 s.f. max)
2. House expanded on the sides only if the objective of expansion cannot be accomplished with 1. (500 s.f. max)
3. House expanded further into the buffer only if objective of expansion cannot be accomplished with 1. or 2., but no closer to the critical area than the existing house (250 s.f. max)

Note – maximum footprint expansion and mitigation recommended in all cases

## CITY COUNCIL COMMENTS

- City Council held study session on June 21, 2016
- Comments on Planning Commission direction:
  1. Concern about implementing **approved CKC master plan** with proposed permitting process.
    - Staff suggests have City master plans approved by City Council reviewed through Permitted with Standards (Planning Official ) instead of Process I (public notice and comment) since already went through extensive public review process
  2. Concern about allowing **retail use** for uses with high traffic impact on critical area to be eligible for Reasonable Use Exceptions.
    - Staff proposes list of retail uses not eligible for RUE that have more impacts (Part II of code)
  3. Consider options for expansion of non-conforming **commercial and MF structures** in buffers like SF (Part II of code).

## COMMENT LETTER FROM WILLIAM ANSPACH

- Received comment letter from William Anspach about requiring buffer at inlets and outlets of culverted streams.
- Current code requires stream buffer **around culvert openings**, including Plate 16A.
- Staff will do research and respond back at next Planning Commission meeting,



## NEXT STEPS

- July 14 or July 28 (tentative) Part II of draft Chapter 90
- July 25 or August (tentative) Houghton Community Council review of draft Chapter 90
- August or Sept: Joint Hearing

## EFFECTIVE DATE OF NEW CHAPTER 90

- Consider setting **effective date** after adoption for **February 1, 2017**:
  1. Give applicants more time to complete building permit submittals to vest under current Chapter 90 if they choose.
  2. Provide time for staff to be trained on new regulations.
  3. Allow time to codify amendments into the Zoning Code.
- City often sets effective date later than adoption date.



## REVIEW OF DRAFT CODE

1. User Guide (Page 1)
2. Purpose (Pages 1-3)
3. Applicability (Page 3)
4. Critical Area Maps and Other Resources (Page 4)
5. Regulated Activities (Page 4)
6. Process (Page 4)
7. Exemptions (Pages 5-6)
8. Permitted Activities (Pages 7-10)

## REVIEW OF DRAFT CODE

- 9. Public Agency and Public Utilities (Page 10)
- 10. Programmatic Permits (Pages 10-11)
- 11. Wetlands and Associated Buffer Standards (Pages 11-17)
- 12. Stream and Associated Buffer Standards (Pages 17-24)
- 13. Minor Lakes (Pages 24-25)
- 14. Fish and Wildlife Habitat Conservation Areas (Pages 25-28)
- 15. Frequently Flooded Areas (Page 28)

### GENERAL STANDARDS

- 16. Buffer Averaging (Page 29)

# REVIEW OF DRAFT CODE

## GENERAL STANDARDS (continued)

- 17. Buffer Modifications and Waivers (Pages 29-30)
- 18. Increase in Buffer Width Standard (Page 30)
- 19. Structure Setback from Buffer (Pages 30-31)
- 20. Vegetative Buffer Standards (Pages 31-32)
- 21. Trees in Critical Areas (Pages 32-33)
- 22. Measures to Minimize Impacts to Critical Areas (Page 33)
- 23. Critical Area Markers, Fencing and Signage (Pages 33-34)
- 24. Critical Area Determination (Pages 34-35)
- 25. Critical Area Report (Pages 35-37)



FURTHER QUESTIONS? FURTHER COMMENTS?

- **Questions?**
- **Comments?**